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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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In re S.F., a Person Coming Under  
the Juvenile Court Law.

SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

A.M.,

Defendant and Appellant.

C038803

(Super. Ct. No. JD215305)

A.M. (appellant), the mother of S.F. (the minor), appeals from an order of the juvenile court terminating her parental rights. (Welf. & Inst. Code, §§ 366.26, 395.)<sup>1</sup> Appellant contends the evidence is insufficient to support the finding by the juvenile court that the minor is adoptable. Disagreeing with that contention, we affirm the order.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On May 8, 2000, the Sacramento County Department of Health and Human Services (DHHS) filed a section 300 petition on behalf of the minor, who was born six days previously. That petition alleged appellant had failed to reunify with three of the minor's siblings, each of whom had been adjudged dependent children of the juvenile court. The petition also alleged appellant suffered from emotional problems, rendering her incapable of providing adequate care for the minor.

The juvenile court sustained the petition and adjudged the minor a dependent child. The court denied reunification services to appellant and scheduled a section 366.26 hearing.

In a November 1998 psychological evaluation, psychologist Anthony Urquiza had reported that appellant's full scale intelligence quotient was 72, which placed her in the "borderline" range of intelligence. That evaluation also noted the difficulties from which appellant suffered, including a "personality disorder," "bipolar symptoms," and possible substance abuse. Urquiza opined that appellant's problems were "chronic" and "enduring."

In his April 2001 report, the social worker noted the minor's foster parent did not want to adopt the minor. However, according to the social worker, the minor was doing well in his placement and was bonding with his foster parent. The minor also was in good health. The social worker opined that he appeared to be "age appropriate in development and growth." Moreover, although the minor had not been tested as to his

"intellectual potential," the report also noted that the foster parent had stated the minor lacked any "behavioral difficulties."

As DHHS had not yet found an adoptive home, the social worker recommended a continuance of the section 366.26 hearing. DHHS then would attempt to locate such a home for the minor. The report noted DHHS also would conduct a home evaluation of the minor's aunt for possible placement with her.

At the May 2, 2001, section 366.26 hearing, the social worker told the juvenile court that, from April 18 until April 20, the minor had been hospitalized because he suffered a seizure. He was discharged. According to the social worker, although the minor later returned to the hospital suffering from a cough, doctors determined he was fine.

Appellant objected to the proposed termination of her parental rights. Counsel for the minor argued the minor was adoptable. DHHS no longer sought a continuance of the hearing.

At the conclusion of the section 366.26 hearing, the juvenile court found it likely the minor would be adopted and terminated appellant's parental rights.

#### **DISCUSSION**

Noting the lack of test results regarding the minor's intelligence, his hospitalization for seizures, and the fact that he had not been placed in a prospective adoptive home, appellant contends the evidence is insufficient to support the finding by the juvenile court that the minor is adoptable. Appellant suggests "there may be problems in locating an

adoptive home for [the minor]." In support of his claims, appellant relies in part on *In re Amelia S.* (1991) 229 Cal.App.3d 1060.

The goal of dependency proceedings is the protection of the child. (*In re Kerry O.* (1989) 210 Cal.App.3d 326, 333.) One important aspect of that goal "is to provide children with stable, permanent homes." (*In re Heather P.* (1989) 209 Cal.App.3d 886, 890.) A preference for permanent placements, which is afforded by adoption, is a vital component of the statutory scheme. (*In re Brian R.* (1991) 2 Cal.App.4th 904, 923-924; cf. *In re Mark V.* (1986) 177 Cal.App.3d 754, 760-762.)

The juvenile court terminates parental rights only if it determines by clear and convincing evidence that it is likely the minor will be adopted. (§ 366.26, subd. (c)(1).) The issue of adoptability in a section 366.26 hearing "focuses on the *minor*, e.g., whether the minor's age, physical condition, and emotional state make it difficult to find a person willing to adopt the minor." (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649.) It is not necessary that the minor already be in a potential adoptive home, or that there even be a prospective adoptive parent. (*Ibid.*)

On appeal, our "review of the sufficiency of the evidence to support the judgment is limited to whether the judgment is supported by substantial evidence. Issues of fact and credibility are questions for the trial court and not the reviewing court. The power of the appellate court begins and

ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which will support the conclusion reached by the trier of fact." (*In re Christina T.* (1986) 184 Cal.App.3d 630, 638-639.)

In this case, the juvenile court could find that, although the minor's circumstances are somewhat problematical, he is a good candidate for adoption. (Cf. *In re Roderick U.* (1993) 14 Cal.App.4th 1543, 1550.) It is possible that, in the future, the minor may have some special needs, which could test the patience and skills of any adoptive parent. On the other hand, the record shows he is in generally good health and is able to form attachments with parental figures. Moreover, although the minor had been hospitalized recently, there was no evidence to suggest he had any ongoing medical difficulties. The lack of intelligence test results for the minor should not be surprising; he is less than two years old.<sup>2</sup>

Appellant's reliance on *In re Amelia S.*, *supra*, 229 Cal.App.3d 1060 is misplaced. That case involved 10 brothers and sisters; they were described as "'hard to place'" minors. (*Id.* at p. 1063.) Here, despite the minor's recent hospitalizations, the social worker believed the minor was adoptable. There was no testimony suggesting the minor was

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<sup>2</sup> We reject appellant's assertion as mere speculation that "[s]ince [appellant] was of borderline intelligence, and intelligence is generally hereditary, this indicated that [the minor] was also of limited intelligence." As appellant notes, the record contains no evidence regarding the minor's intelligence.

not likely to be adopted. Moreover, the record suggests he is sociable and able to bond with adult caregivers. Finally, it is not necessary to have an adoptive home already chosen. (*In re Sarah M.*, *supra*, 22 Cal.App.4th at p. 1649.)

It is true "special needs" children may be more difficult to place than those without such needs. For example, in *In re Michael G.* (1983) 147 Cal.App.3d 56, the minor was developmentally disabled and suffered from serious emotional problems. According to the record in that case, the seven-year-old minor functioned below his age level, was not completely toilet-trained, and possessed limited language abilities. On that record, the court noted all parties had conceded adoption would be difficult. (*Id.* at pp. 58-59.)

The situation here is different. The minor is very young and has been "adjusting well" in placement. He had a good appetite, took regular naps, and was sleeping through the night. Most importantly, despite some medical problems, the record reflects the minor's health is good and he has demonstrated a capacity to bond with caregivers.

In *In re Jennilee T.* (1992) 3 Cal.App.4th 212, the minor was at risk for developmental problems. The parents suggested that fact rendered it unlikely the minor would be adopted. (*Id.* at p. 224.) Rejecting their argument, the court was persuaded there was "sufficient evidence adoption was likely to occur in the foreseeable future." (*Ibid.*) The court also relied on the social worker's testimony that the minor was "'generally adoptable.'" (*Ibid.*)

From our review of the record in this case, it is apparent that, before making its decision, the juvenile court carefully considered all of the pertinent facts and circumstances. On this record, the court concluded the minor was adoptable. Substantial evidence supports that determination. As the social worker found, it is likely the minor will be adopted. (Cf. *In re Scott M.* (1993) 13 Cal.App.4th 839, 843-844.)

**DISPOSITION**

The order terminating appellant's parental rights is affirmed.

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RAYE, J.

We concur:

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SCOTLAND, P.J.

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BLEASE, J.